

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

BILLY RAY SHANEE MALDONADO,
Plaintiff,
v.
B. KEBLER, et al.,
Defendants.

No. 2:21-cv-01243-TLN-DB

ORDER

Plaintiff Billy Ray Shanee Maldonado (“Plaintiff”), a state prisoner proceeding *pro se*, has filed this civil rights action seeking relief under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On July 27, 2021, the magistrate judge filed findings and recommendations herein which were served on Plaintiff and which contained notice to Plaintiff that any objections to the findings and recommendations were to be filed within twenty-one days. (ECF No. 8.) Plaintiff has filed objections to the findings and recommendations, but does not dispute the magistrate judge’s findings that he has accrued three strikes under 28 U.S.C. § 1915(g) and that his allegations do not show he was under imminent threat of serious physical injury at the time he filed his Complaint, which thereby bars him from proceeding in forma pauperis. (*See id.*; ECF No. 9.)

The Court presumes that any findings of fact are correct. *See Orand v. United States*, 602 F.2d 207, 208 (9th Cir. 1979). The magistrate judge’s conclusions of law are reviewed *de novo*.

1 *See Britt v. Simi Valley Unified School Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).

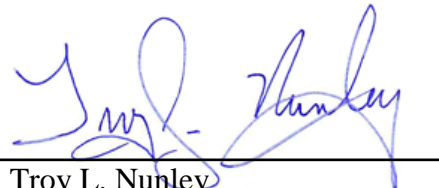
2 The Court has reviewed the file and finds the findings and recommendations to be
3 supported by the record and by the magistrate judge's analysis.

4 Accordingly, IT IS HEREBY ORDERED that:

- 5 1. The Findings and Recommendations filed July 27, 2021 (ECF No. 8), are ADOPTED
6 IN FULL;
- 7 2. The Court finds Plaintiff accrued three strikes under 28 U.S.C. § 1915(g) prior to
8 filing this action;
- 9 3. Plaintiff's motion to proceed in forma pauperis (ECF No. 2) is DENIED;
- 10 4. Plaintiff shall pay the \$400 filing fee required by 28 U.S.C. § 1914 and the fee
11 schedule for the Eastern District of California within fourteen days in order to proceed
12 with this action; and
- 13 5. This matter is referred back to the assigned magistrate judge for all further pretrial
14 proceedings.

15 IT IS SO ORDERED.

16 Dated: August 30, 2021

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20 Troy L. Nunley
21 United States District Judge
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